

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1299 be amended to read as follows:

- 1 Page 15, between lines 35 and 36, begin a new paragraph and insert:
- 2 "SECTION 1. IC 6-9-37 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2005]:
- 5 **Chapter 37. County Seat Food and Beverage Tax**
- 6 **Sec. 1. This chapter applies to a city that is the county seat of a**
- 7 **county in which is located another city or a town that imposes a**
- 8 **food and beverage tax under this article.**
- 9 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
- 10 **chapter.**
- 11 **Sec. 3. (a) The fiscal body of a city may adopt an ordinance to**
- 12 **impose an excise tax, known as the city food and beverage tax, on**
- 13 **transactions described in section 4 of this chapter.**
- 14 **(b) If the fiscal body adopts an ordinance under subsection (a),**
- 15 **the fiscal body shall immediately send a certified copy of the**
- 16 **ordinance to the department of state revenue.**
- 17 **(c) If the fiscal body adopts an ordinance under subsection (a),**
- 18 **the city food and beverage tax applies to transactions that occur**
- 19 **after the last day of the month that succeeds the month in which**
- 20 **the ordinance was adopted.**
- 21 **Sec. 4. (a) Except as provided in subsection (c), a tax imposed**
- 22 **under section 3 of this chapter applies to a transaction in which**
- 23 **food or beverage is furnished, prepared, or served:**
- 24 **(1) for consumption at a location or on equipment provided by**
- 25 **a retail merchant;**

(2) in the city in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) sold by a retail merchant that ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or

(3) sold by a street vendor.

(c) The city food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. A city food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter equals one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

Sec. 6. A tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The treasurer of state shall pay monthly the amounts received from the tax imposed under this chapter to the city fiscal officer upon warrants issued by the auditor of state.

Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the city fiscal officer shall establish a food and beverage tax receipts fund.

(b) The city fiscal officer shall deposit in this fund all amounts received under this chapter.

(c) Money earned from the investment of money in the fund becomes a part of the fund.

Sec. 9. (a) A city shall use money in the fund established under section 8 of this chapter for only the following:

(1) Renovating the city hall.

(2) Constructing new police or fire stations, or both.

(3) Improving the city's sanitary sewers or wastewater treatment facilities, or both.

(4) Improving the city's storm water drainage systems.

(5) Other projects involving the city's water system or

1 protecting the city's well fields, as determined by the city fiscal
2 body.

3 **Money in the fund may not be used for the operating costs of a**
4 **project. In addition, the city may not initiate a project under this**
5 **chapter after December 31, 2010.**

6 (b) The fiscal body of the city may pledge money in the fund to
7 pay bonds issued, loans obtained, and lease payments or other
8 obligations incurred by or on behalf of the city or a special taxing
9 district in the city to provide the projects described in subsection
10 (a).

11 (c) Subsection (b) applies only to bonds, loans, lease payments,
12 or obligations that are issued, obtained, or incurred after the date
13 on which the tax is imposed under section 3 of this chapter.

14 (d) A pledge under subsection (b) is enforceable under
15 IC 5-1-14-4.

16 **Sec. 10. With respect to obligations for which a pledge has been**
17 **made under section 9(b) of this chapter, the general assembly**
18 **covenants with the holders of the obligations that this chapter will**
19 **not be repealed or amended in a manner that will adversely affect**
20 **the imposition or collection of the tax imposed under this chapter**
21 **if the payment of any of the obligations is outstanding."**

22 Renumber all SECTIONS consecutively.

 (Reference is to HB 1299 as printed February 25, 2005.)

Representative Foley